

REMARKS

Reconsideration of this Application is respectfully requested.

Claims 1-24 are pending in the application, with claims 1, 16, and 24 being the independent claims.

Based on the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 103

In the Action on pages 2-5, sections 5-21, claims 1-15 are rejected as being unpatentable over U.S. Patent No. 5,671,412A to Christiano (hereinafter "Christiano"), in view of U.S. Patent No. 6,189,146B1 to Misra et al (hereinafter "Misra"), in further view of U.S. Patent No. 6,006,190A to Baena-Arnaiz et al (hereinafter "Baena"). Applicants respectfully traverse the rejection.

Claim 1 recites a method for providing access to application software in the event of inaccessibility of a license management system, comprising the steps of: determining whether a user has a valid software license to run a software application including sending a query to the license management system; and *permitting a recognized user to execute said software application in the event of inaccessibility of the license management system*. The Action asserts that Christiano teaches the elements of claim 1. However, Christiano fails to teach at least one element of claim 1.

Christiano does not teach or suggest permitting a recognized user to execute said software application in the event of inaccessibility of the license management system. Instead, Christiano describes a basic licensing client-server system that includes a function to locate a license server when the server cannot be located normally. (See Christiano col. 4, lines 55-57). Christiano does not teach what the client can do in the event that the license server is inaccessible. FIG. 14 of Christiano, for example, shows that when a client cannot connect to a license server, the user can run a connection diagnostic 274. FIG. 15 of Christiano shows that if no server is found on the network in block 286, that the connection attempts end in block 288 with no further action.

In contrast, the method recited in claim 1 permits a recognized user to execute the software when the license server is inaccessible. Therefore, Christiano does not teach or suggest permitting a recognized user to execute said software application in the event of inaccessibility of

the license management system, and claim 1 is therefore allowable. The Action has not addressed this specific recited limitation of claim 1. The Action has stated neither how Christiano teaches this limitation nor why it would have been obvious to one of ordinary skill in the art to modify Christiano to obtain this limitation.

Misra is cited as teaching that the permitting step of claim 1 comprises recognizing the user as a previously valid user before permitting the recognized user to execute the software, and does not supplement Christiano to teach or suggest the claimed invention. There is no mention in Misra of permitting a recognized user to execute the software when the license server is inaccessible.

Baena is cited as teaching executing the software in a punishment mode, and does not supplement Christiano or Misra to teach or suggest the claimed invention. There is no mention in Baena of permitting a recognized user to execute the software when the license server is inaccessible.

Therefore, the teachings of Baena and Misra fail to overcome the deficiencies of Christiano. Hence, the Action has not established the *prima facie* obviousness of claim 1. Consequently, claim 1 is allowable.

Further, claims 2-15 are dependent from claim 1 and are allowable over Christiano as being dependent from an allowable claim.

In addition, as per claim 4, Baena does not teach *executing* said software application in a punishment mode comprising imposing a punishment. Instead, Baena teaches terminating a program, losing a program installation, and/or losing the program in response to a violation of a license agreement. See Baena, col. 6, lines 15-49. In none of these scenarios is the program executed in punishment mode. Therefore, Baena fails to teach or suggest executing the software application in a punishment mode as recited in claim 4.

In the Action on pages 6-7, sections 22-31, claims 16-23 are rejected as being unpatentable over Christiano, in view of Misra, in further view of Baena. Applicants respectfully traverse the rejection.

Claim 16 recites a system for managing access to concurrent software licenses, comprising: a network; a license management system coupled to said network operative to authorize

a user of a software application; and a client workstation coupled to said network, wherein said client workstation comprises a validation device operative to permit a recognized user *to execute said software application in the event of inaccessibility of a license management system.* The Action asserts that Christiano teaches the elements of claim 16. However, Christiano fails to teach at least one element of claim 16.

Christiano does not teach or suggest a validation device operative to permit a recognized user to execute said software application in the event of inaccessibility of a license management system. Instead, as discussed above, Christiano describes a basic licensing client-server system that includes a function to locate a license server when the server cannot be located normally. (See Christiano col. 4, lines 55-57). Christiano does not teach what the user of the software can do in the event that the license server is wholly inaccessible. In contrast, the validation device recited in claim 16 permits a recognized user to execute the software when the license server is inaccessible. Therefore, Christiano does not teach or suggest a validation device operative to permit a recognized user to execute said software application in the event of inaccessibility of a license management system, and claim 16 is therefore allowable. The Action has not addressed this specific recited limitation of claim 16. The Action has stated neither how Christiano teaches this limitation nor why it would have been obvious to one of ordinary skill in the art to modify Christiano to obtain this limitation.

Misra is cited as teaching that the validation device of claim 16 is operative to recognize whether the user previously obtained a valid authorization to execute the software by the license management system before permitting execution of the software, and does not supplement Christiano to teach or suggest the claimed invention. There is no mention in Misra of a validation device operative to permit a recognized user to execute said software application in the event of inaccessibility of a license management system.

Baena is cited as teaching that the validation device of claim 16 permits the user to run the software with a punishment, and does not supplement Christiano or Misra to teach or suggest the claimed invention. There is no mention in Baena of a validation device operative to permit a recognized user to execute said software application in the event of inaccessibility of a license management system.

Therefore, the teachings of Baena and Misra fail to overcome the deficiencies of Christiano. Hence, the Action has not established the *prima facie* obviousness of claim 16. Consequently, claim 16 is allowable.

Further, claims 16-23 are dependent from claim 16 and are allowable over Christiano as being dependent from an allowable claim.

In the Action on pages 7-8, sections 32-35, claim 24 is rejected as being unpatentable over Christiano in view of Misra. Applicants respectfully traverse the rejection.

Claim 24 recites elements similar to the elements of claims 1 and 16, and is allowable for at least the reasons given above for claims 1 and 16. Applicants respectfully request that the rejection be withdrawn.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Dated:

6-29-04

Respectfully submitted,



Jeffri A. Kaminski
Reg. No.: 42,709
Attorney/Agent For Applicant

VENABLE LLP
P.O. Box 34385
Washington, DC 20043-9998
(202) 344-4000
(202) 344-8300 (Fax)